

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO.2379 OF 2006
IN
ORIGINAL APPLICATION NO.288 OF 2002

1. Shri Hansraj D. Nagda & anr. Appellants
 v/s.
The Union of India. Respondent
Mr.G.J. Mohan Rao for Appellants.
None for Respondent.

CORAM : SMT.ROSHAN DALVI, J.

DATED : 13th April, 2007

P.C. :

1. This Appeal is filed from the judgment and order dated 26.6.2006 of the Railway Claims Tribunal, Mumbai Bench, Mumbai, dismissing the Appellants' (original Applicants') Application for compensation for the death of their son.

2. The deceased was found in a dead condition on the railway tracks at Bandra Railway Station. The Appellants as well as the deceased resided in Khar (East). One uncle of the deceased also resided there and had a kirana shop in Khar (East). Appellant No.1, father of the deceased as well as the uncle of the deceased have led evidence. They are both not eye witnesses to the incident. They have relied upon one ticket issued on the date of the accident at Khar Railway Station which was valid upto Lower Parel Station.

They contend that the deceased fell off from the train and hence, there was an untoward incident. The evidence does not prove that the deceased fell off from the train. Hence, the Tribunal has correctly concluded that there is no untoward incident.

3. It is contended on their behalf that the ticket shows that the deceased boarded the train at Khar and was to get down at Mahim. The ticket could be produced by any one else. Both Appellant No.1 and the uncle resided at Khar. The uncle also carries on business at Khar. The ticket is not a conclusive evidence of the incident. Once the untoward incident is not proved, nothing further need be done by the Respondent.

4. It is contended that one Laxman was an eye witness. Knowing that also, the Appellants have not examined the said Laxman. There is no reason whatsoever to remand the matter, which is sought. Appeal is dismissed.

(SMT. ROSHAN DALVI, J.)